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MAY 19 2003

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN D. PERKEY and THERESA M.
PERKEY,

Plaintiffs

vs.

RELIABLE CARRIERS, INC.,
DANIEL JOSEPH BEMBEN and KENT,
Defendants

CIVIL ACTION NO. 1:CV-00-1639

JURY TRIAL DEMANDED

Magistrate Judge Smyser

**DEFENDANT RELIABLE CARRIERS, INC. AND DANIEL JOSEPH BEMBEN'S
MOTION IN LIMINE TO EXCLUDE OR, IN THE ALTERNATIVE, TO LIMIT THE
MEDICAL EXPENSES PROVABLE AT TRIAL**

AND NOW come Defendants Reliable Carriers, Inc. and Daniel Joseph Bemben, by and through their attorneys, Godfrey & Courtney, P.C., and state the following:

1. An order was issued on February 28, 2003 by this Honorable court requiring that all discovery must be completed by April 7, 2003.
2. It is the Defendants' understanding that Plaintiffs intend to submit into evidence and attempt to recover the face amounts of medical bills allegedly incurred because of Plaintiffs medical treatment from this accident.
3. At no time during discovery did Plaintiffs provide Defendants with a list of medical expenses that they allege to be related to this accident.
4. Plaintiff has a twenty (20) year history of back, neck, knee and shoulder problems. He has been treated by numerous medical care providers and has undergone a variety of surgeries. He has been disabled and received workers compensation benefits before this incident on many occasions because of many accidents.

5. Because of the extensive medical history, Defendants, in their discovery requests, requested that Plaintiffs provide them with an itemized list of the costs and expenses of all treatments received by Plaintiffs that they claim to be related to this accident. In addition, Defendants requested that Plaintiffs provide the identity of the provider, the amount of such bill, and the service rendered.

6. Plaintiffs responded on May 15, 2001, that this information "WILL BE SUPPLIED." (See Defendants' Interrogatory #8 and #11 and Plaintiffs' answer, which is attached to Defendants' Motion in Limine as Exhibit "A.")

7. Except for medical records, the medical bills and expenses have never been provided. Defendants are now severely prejudiced by Plaintiffs delay in providing this information.

8. Because of Plaintiffs' failure to provide this information in a timely manner, Plaintiffs should be precluded from recovering medical expenses.

9. In the alternative, Plaintiffs should be limited to recovering past medical expenses actually paid and accepted as full payment for services rendered by medical providers.

10. The Pennsylvania Supreme Court in the case of Moorhead v. Crozer Chester Medical Center, 564 Pa. 156, 765 A.2d 786 (2001) held that the amount accepted by the medical care provider as payment in full is the amount the Plaintiff is entitled to recover as compensatory damages. *Id.* at 162, 765 A.2d 789.

WHEREFORE, Defendants Reliable Carriers, Inc. and Daniel Joseph Bemben respectfully request this Honorable Court preclude Plaintiffs from introducing any medical

expenses at the time of trial or, in the alternative, limit the medical evidence to the amount actually paid.

Respectfully submitted,

GODFREY & COURTNEY, P.C.

By: 

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Date: May 19, 2003